

From: Cscott <cscott@lawofficeofchristyscott.com>
Sent: Friday, September 04, 2020 2:46 PM
To: 'arie.baxlaw@gmail.com, office.baxlaw@gmail.com'
Subject: Re: 19-125 ; Ted D. Ellis & Teresa Ellis v. C. Kirkman, indv; A. Swinehammer, indv; L. Gibson, indv; and as agents/officers Town of Bluffton PD & Town of Bluff PD ;; 19-125 ; Ted D. Ellis & Teresa Ellis v. C. Kirkman, indv; A. Swinehammer, indv; L. Gibson

Dear Ari,

I called your office today to ask for a return call because we have a few things that I would like to discuss. Your staff returned the call and asked me to reduce the subject matter to an e-mail. As an initial matter, the pending F.B.I. investigation has several implications for the civil matter. We are advised that this investigation is not expected to be concluded until January 2021. First, I need to consult with you prior to my filing next week of a Motion to Stay all activity in the civil matter for no less than 120 days on grounds that the ongoing parallel criminal investigation by federal authorities severely limits the officers' ability to properly participate in the litigation of the civil matter. This motion is needed to safeguard the officers' rights against self-incrimination secured by the Fifth Amendment of the United States Constitution.

A second point of discussion surrounds the potential effect of a criminal indictment, should one be handed down, on the liability coverage for the individually named officers in the civil matter. Historically, reservation of rights letters can be issued for actions that involve conduct outside the course and scope of official duties. As charges are not brought as of yet in this case, I am not sure if they would have an impact in this matter.

There may be some benefit in our consideration of a bifurcated mediation where we see if some common ground and settlement can be reached during the period of stay and prior to the determination as to whether criminal charges would be brought. If not successful, discovery would proceed and the mediation would resume at the end of discovery, prior to the trial of this case. There are several spin-off ramifications that I would be happy to discuss with you at your convenience. In addition to the office number, you are always welcome to call my cell at 843-909-4350.

Sincerely,

Christy Scott

